

AMENDED IN ASSEMBLY MAY 1, 1997

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

## ASSEMBLY BILL

**No. 57**

**Introduced by Assembly Member Escutia**

December 2, 1996

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An act to amend Section 44080 of, and to add Section 44081.5 to, the Health and Safety Code, ~~and to amend Section 10878 of the Revenue and Taxation Code~~, relating to air pollution.

### LEGISLATIVE COUNSEL'S DIGEST

AB 57, as amended, Escutia. Air pollution: vehicles.

Existing law requires the Department of Consumer Affairs to implement the motor vehicle biennial inspection program, and to establish, by regulation, a program for the out-of-cycle testing and repair of vehicles found, through roadside auditing, to be emitting excessive pollutants, referred to as gross polluters.

This bill would ~~require the department to conduct, as part of that gross polluter program, declare the intent of the Legislature to create a smog check auto repair assistance loan program, pursuant to procedures that the bill would prescribe,~~ to provide state guaranteed loans by insured financial organizations to low to moderate income owners of gross polluters for repairs to bring the vehicle into compliance with emission standards. ~~The bill would require any such loans that are more than 60 days past due to be to be transferred by~~

~~the lender to the Franchise Tax Board for collection, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ *no*.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44080 of the Health and Safety  
2 Code is amended to read:

3 44080. The Legislature hereby finds and declares as  
4 follows:

5 (a) California's air is the most polluted in the nation  
6 and the largest source of that pollution is automobiles.

7 (b) California has the most stringent new car emission  
8 standards in the nation, as well as a vehicle inspection  
9 (smog check) program, that result in most cars producing  
10 very little pollution.

11 (c) A small percentage of automobiles cause a  
12 disproportionate and significant amount of the air  
13 pollution in California.

14 (d) Those gross polluters are primarily vehicles in  
15 which the emission control equipment has been  
16 disconnected or which are very poorly maintained.

17 (e) New technologies, such as remote sensing, can  
18 identify gross polluters on the roads, enabling law  
19 enforcement authorities to stop, inspect, and cite vehicles  
20 with disconnected emission control equipment, and can  
21 promote the development of incentives for the repair of  
22 other high-emitting vehicles.

23 (f) Requiring owners to reconnect emission control  
24 equipment and developing incentives for needed  
25 maintenance on high-emitting vehicles may be  
26 cost-effective methods to reduce emissions and help  
27 achieve air quality standards in many districts.

28 (g) A state guaranteed loan program should be  
29 available for low to moderate income owners of vehicles  
30 that are gross polluters who may be unable to pay for the  
31 repairs that are necessary to meet emission standards.

32 SEC. 2. Section 44081.5 is added to the Health and  
33 Safety Code, to read:

1 44081.5. ~~(a)~~ It is the intent of the Legislature,  
2 pursuant to this section, to create the Smog Check Auto  
3 Repair Assistance Loan Program, under the  
4 administration of the department, to provide state  
5 guarantees for short-term low-interest loans, to be made  
6 by insured financial organizations to qualified owners of  
7 vehicles that are gross polluters.

8 ~~(b) For the purposes of this section, the following~~  
9 ~~terms have the following meaning:~~

10 ~~(1) "Borrower" means a licensed California driver~~  
11 ~~who is a resident of this state seeking to register or~~  
12 ~~reregister a vehicle determined pursuant to this chapter~~  
13 ~~to be a gross polluter, who has completed a loan~~  
14 ~~application pursuant to this section, and has~~  
15 ~~demonstrated the ability to repay the loan pursuant to the~~  
16 ~~terms of the loan.~~

17 ~~(2) "Loan" means a loan made under the Smog Check~~  
18 ~~Auto Repair Assistance Loan Program, by an insured~~  
19 ~~financial institution, that is 100 percent guaranteed by the~~  
20 ~~state.~~

21 ~~(3) "Low to moderate income" means that the income~~  
22 ~~of the borrower from all sources does not exceed 80~~  
23 ~~percent of the median income level in the standard~~  
24 ~~metropolitan statistical area in which the borrower~~  
25 ~~resides.~~

26 ~~(4) "Program" means the Smog Check Auto Repair~~  
27 ~~Assistance Loan Program established pursuant to this~~  
28 ~~section.~~

29 ~~(5) "Short-term low interest" means that the term of~~  
30 ~~the loan shall not exceed 24 months or the date that the~~  
31 ~~vehicle changes ownership, whichever is sooner, and that~~  
32 ~~the interest rate shall not exceed the prime rate plus 3~~  
33 ~~percent.~~

34 ~~(c) The Smog Check Repair Assistance Loan Program~~  
35 ~~is hereby established. The department shall conduct the~~  
36 ~~program as part of the gross polluter program established~~  
37 ~~pursuant to subdivision (b) of Section 44081 and may~~  
38 ~~adopt regulations for implementation of the program~~  
39 ~~pursuant to the authority provided in paragraph (6) of~~  
40 ~~subdivision (b) of Section 44081. Funds from the High~~

~~Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund, as well as funds from other appropriate sources, shall be available for the administration of, and for loan guarantees provided pursuant to, the program, upon appropriation by the Legislature. The program shall be available to qualified borrowers with low to moderate income and shall be conducted in accordance with the following requirements:~~

~~(1) The loans shall be used only for the purpose of making those repairs to the gross polluter that are necessary to bring the vehicle into compliance with emission standards.~~

~~(2) Upon notification that the vehicle is a gross polluter, the owner shall receive information on the availability of the program.~~

~~(3) The department shall develop the application, and written disclosures to support the program, which shall include an advisory on the importance of maintaining or developing a good credit history, as well as the 800 number for the department. The department shall be prepared to answer questions from owners of gross polluters regarding their options and the details of the program. The written information on the availability of the program shall include a method by which the vehicle owner may receive an application.~~

~~(4) If the vehicle owner has reason to believe that he or she may qualify for a loan under the program, it the responsibility of the owner to notify the Department of Motor Vehicles of that potential qualification, in person, at which time a two-month grace period on the registration of the vehicle shall commence. During that grace period, the owner shall complete the loan application and return it, along with the requested supporting documents, to a qualified lender chosen from a list provided to the owner with the application. Upon approval by the lender, the owner-borrower shall authorize the lender to use the proceeds of the loan to pay for the gross polluter repairs. If necessary, the borrower shall supplement the amount of the loan to cover the full~~

1 ~~cost of the repairs. Upon completion of the repairs, the~~  
2 ~~borrower shall follow the procedures for the testing of~~  
3 ~~vehicles that are identified as gross polluters by a~~  
4 ~~designated test-only facility, or by a test and repair station~~  
5 ~~that is both licensed and certified pursuant to Sections~~  
6 ~~44014 and 44014.2. The loan amount shall not exceed the~~  
7 ~~value of the vehicle, less any liens against the vehicle, as~~  
8 ~~determined by the lender.~~

9 ~~(5) The department shall adopt regulations to ensure~~  
10 ~~that the lender, and that any person required to confirm~~  
11 ~~income sources for the lender, reply in a timely manner.~~

12 ~~(6) The lender shall be responsible for servicing the~~  
13 ~~short-term low-interest loan, which shall have no~~  
14 ~~prepayment penalty. With the exception of the interest~~  
15 ~~rate and term of the loan, all disclosures, fees, and late~~  
16 ~~payment penalties shall be consistent with the lender's~~  
17 ~~policies for comparable consumer or commercial loans.~~

18 ~~(7) Should the loan become more than 60 days past~~  
19 ~~due, the lender shall transfer the loan to the Franchise~~  
20 ~~Tax Board for appropriate collection procedures~~  
21 ~~consistent with Section 10878 of the Revenue and~~  
22 ~~Taxation Code. The state, through the department, shall~~  
23 ~~make the lender whole for the loan balance plus unpaid~~  
24 ~~late fees.~~

25 ~~SEC. 3. Section 10878 of the Revenue and Taxation~~  
26 ~~Code is amended to read:~~

27 ~~10878. (a) Notwithstanding Sections 10877 and~~  
28 ~~10951, on and after July 1, 1993, the responsibility and~~  
29 ~~authority for the collection of the following delinquent~~  
30 ~~amounts, and any interest, penalties, or service fees~~  
31 ~~added thereto, shall be transferred from the department~~  
32 ~~to the Franchise Tax Board:~~

33 ~~(1) Registration fees.~~

34 ~~(2) Transfer fees.~~

35 ~~(3) License fees.~~

36 ~~(4) Use taxes.~~

37 ~~(5) Penalties for offenses relating to the standing or~~  
38 ~~parking of a vehicle for which a notice of parking~~  
39 ~~violation has been served on the owner, and any~~  
40 ~~administrative service fee added to the penalty.~~

~~(6) Any court-imposed fine or penalty assessment, and any administrative service fee added thereto, that is subject to collection by the department.~~

~~(7) The balance owed for a state guaranteed loan made under the Smog Check Repair Assistance Loan Program, transferred pursuant to paragraph (7) of subdivision (c) of Section 44081 of the Health and Safety Code.~~

~~(b) Any reference in this part to the department in connection with the duty to collect these amounts shall be deemed a reference to the Franchise Tax Board.~~

~~(c) The amounts collected under subdivision (a) may be collected in any manner authorized under the law as though they were a tax imposed under Part 10 (commencing with Section 17001) that is final, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding order for taxes. Part 10 (commencing with Section 17001), 10.2 (commencing with Section 18401), or 10.7 (commencing with Section 21001), or any other applicable law, shall apply for this purpose in the same manner and with the same force and effect as if the language of that Part 10, 10.2, or 10.7, or other applicable law, is incorporated in full into this authority to collect these amounts, except to the extent that the provision is either inconsistent with the collection of these amounts or is not relevant to the collection of these amounts.~~

~~(d) Even though the amounts authorized by this section are collected as though they are taxes, amounts so received by the Franchise Tax Board shall be deposited in an appropriate fund or account upon agreement between the Franchise Tax Board and the department. The amounts shall be distributed by the department from the appropriate fund or account in accordance with the laws providing for the deposits and distributions as though the funds were received by the department.~~

~~(e) For any collection action under this section, the Franchise Tax Board may utilize the contract~~

1 authorization, procedures, and mechanisms available  
2 either with respect to the collection of taxes, interest,  
3 additions to tax, and penalties pursuant to Section 18837  
4 or 19376, or with respect to the collection of the  
5 delinquencies by the department immediately prior to  
6 the time this section takes effect.

7 (f) The Legislature finds that it is essential for fiscal  
8 purposes that the program authorized by this section be  
9 expeditiously implemented. Accordingly, Chapter 3.5  
10 (commencing with Section 11340) of Part 1 of Division 3  
11 of Title 2 of the Government Code shall not apply to any  
12 standard, criteria, procedure, determination, rule, notice,  
13 or guideline established or issued by the Franchise Tax  
14 Board in implementing and administering the program  
15 required by this section.

16 (g) Any standard, criteria, procedure, determination,  
17 rule, notice, or guideline, that is not subject to the  
18 provisions of Chapter 3.5 (commencing with Section  
19 11340) of Part 1 of Division 3 of Title 2 of the Government  
20 Code pursuant to subdivision (f), shall be approved by  
21 the Franchise Tax Board, itself.

22 (h) The Franchise Tax Board may enter into any  
23 agreements or contracts necessary to implement and  
24 administer the provisions of this section. The Franchise  
25 Tax Board, in administering this section, may delegate  
26 collection activities to the department. Any contracts  
27 may provide for payment of the contract on the basis of  
28 a percentage of the amount of revenue realized as a result  
29 of the contractor's services under that contract. However,  
30 the Franchise Tax Board, in administering this part, may  
31 not enter into contracts with private collection agencies  
32 as authorized under Section 19377.